

Serial No. 10/736,117
Attorney Docket No. 7348-1
Reply to Office Action

REMARKS

Status of the Claims

Claims 1, 3, 4, 6, 7, 11-15, 19 and 21 are currently pending, with claims 12-15, 19, and 21 having been withdrawn from consideration. Of claims 1, 3, 4, 6, 7, and 11, claim 1 is the sole independent claim.

Applicants respectfully request the Examiner to reconsider and withdraw the outstanding rejections in view of the following remarks.

Claim Rejections Under 35 U.S.C. § 103

The rejection of claims 1, 3, 4, 6, 7, and 11 as allegedly unpatentable over EP 1 162 306 B1 ("Draxö") in view of U.S. Patent No. 5,433,997 ("Land") is respectfully traversed.

As explained in the "Background of the Invention" section of the present application, a difficulty has been found in producing aesthetically pleasing glass fabrics, particularly glass fabrics which contain a pattern, and which can be efficiently prepared using a loom. (Page 1, Lines 12-18). For example, U.S. Patent No. 6,267,151, which describes a method for producing a patterned glass fabric, states that by adhering to the *specific limiting values of the glass fiber yarns* used that patterned glass fabrics can be produced. (Page 1, Lines 19-29). The importance of aesthetics in commercial products such as wall coverings requires flexibility in creating patterns in woven glass textile fabrics. (Page 1, Line 30 - Page 2, Line 1). An inability to weave patterned glass fiber textiles on a Jacquard loom using a variety of glass fiber yarns becomes an obstacle to commercial acceptance. (Page 2, Lines 1-3).

Accordingly, the presently invention produces a glass textile fabric which is aesthetically pleasing and has been prepared on a Jacquard loom. The presently claimed invention further provides a process for preparing a patterned glass fiber textile useful in wallcoverings which is able to be woven on a Jacquard loom using glass fiber yarns for the warp which are much smaller than have previously been employed.

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Thus, independent claim 1 is directed to a woven, patterned glass fiber textile fabric comprised of a glass fiber yarn with a titer of from about 30 to 75 tex as the warp, and a glass fiber yarn having a titer ranging from 190 to 350 tex as the weft, wherein the warp density of the fabric ranges from 2.5 to 5 threads/cm and the weft density ranges from 2.0 to 12 threads/cm, wherein the woven, patterned glass fiber textile fabric is formed from a Jacquard weaving process using a Jacquard loom. Independent claim 1 further specifies that each glass fiber yarn used as the warp and/or weft is a sliver or a texturized yarn.

Draxö provides a pre-glued glass fiber wallcovering and process for its formation. (Abstract). Draxö discloses,

Preferred yarns include, for the warp direction are continuous C-glass or E-glass of 9 to 10 microns, and 139 to 142 tex with approximately 315 to 340 ends per meter [*3.15 to 3.40 threads/cm*]. An alternative warp yarn is formed from continuous C-glass or E-glass of 6 to 9 microns, 34 to 68 tex with approximately 680 ends per meter [*6.80 threads/cm*].

For the weft direction, a preferred glass is discontinuous spun E-glass or C-glass, *8 to 11 microns*, and 165 to 550 tex with approximately 170 to 600 ends per meter [*1.70 to 6.00 threads/cm*]. An alternative weft yarn includes continuous volumized E-glass or C-glass of 8 to 11 microns and 165 to 550 tex with approximately 170 to 600 ends per meter.

(Emphasis Added; Paragraphs [0018]-[0019]).

The Office Action acknowledges that Draxö fails to disclose forming a woven, patterned glass fiber textile fabric from a Jacquard weaving process using a Jacquard loom. Accordingly, the Office Action cites Land for disclosure that "it was known in the wallcovering art to form a fabric for use in wallcovering comprising textured glass woven yarns, wherein the fabric is woven into various styles include Jacquard, and woven using known looms." (Page 5). Land discloses,

As examples of extremely fine glass filaments possessing the desired properties, it is noted that yarns consisting of continuous glass filaments having an average diameter of approximately 0.00015 inch [*3.81 microns*] are commercially available and are known as B (or Beta) filament yarns. Filaments having an average

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diameter of approximately 0.00018 inch [*4.57 microns*] are known as C filaments, and filaments having a diameter of approximately 0.00021 inch [*5.33 microns*] are known as D filaments. Commercial DE filaments have an average diameter of approximately 0.00025 inch [*6.35 microns*].

(Emphasis Added; Column 4, Lines 4-14). Land further discloses that "the weave can be warp ends per inch 26 ± 1 and filling picks per inch 17 (two ends up) and warp ends up per inch 26 ± 1 and filling picks per inch 17 (one end up)." (Column 5, Lines 46-49). Warp ends per inch 26 ± 1 corresponds to *10.2 ± 0.4 threads/cm*, while filling picks per inch 17 (two ends up) corresponds to *13.4 threads/cm* and filling picks per inch 17 (one end up) corresponds to *6.7 threads/cm*. Land therefore discloses different yarns than the presently claimed woven, patterned glass fiber textile fabric comprised of a glass fiber yarn with a titer of from about 30 to 75 tex as the warp, and a glass fiber yarn having a titer ranging from 190 to 350 tex as the weft, wherein the warp density of the fabric ranges from 2.5 to 5 threads/cm and the weft density ranges from 2.0 to 12 threads/cm.

The Office appears to be picking and choosing the glass fiber yarn of Draxö and combining it with the Jacquard weaving process using a Jacquard loom as disclosed by Land in an attempt to arrive at the presently claimed woven, patterned glass fiber textile fabric. However, a reference must be viewed as a whole for what it teaches. Specifically, the only disclosure in Land related to Jacquard weaving process using a Jacquard loom discloses glass fiber yarns for the warp which are much larger than those presently claimed. "[I]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." *In re Wesslau*, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965); *see also Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1383, 231 USPQ 81, 93 (Fed. Cir. 1986).

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While the Office Action asserts that Land is not relied on to teach glass yarn sizes and that Land does not require the individual filaments to have a specific diameter, Applicants respectfully submit that the results of combining Draxö and Land would *not* have been predictable, given the different glass yarns disclosed by each of Draxö and Land.

Further, a judgment on obviousness is proper if it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and must not include knowledge gleaned only from applicant's disclosure. *In re McLaughlin* 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971); MPEP § 2145.

As noted above, it is the presently claimed invention that overcomes the prior use of specific limiting values of glass fiber yarns in producing patterned glass fabrics on a Jacquard loom and provides a process for preparing a patterned glass fiber textile useful in wallcoverings which is able to be *woven on a Jacquard loom using glass fiber yarns for the warp which are much smaller than have previously been employed*. Specifically, as further noted above, the presently claimed woven, patterned glass fiber textile fabric is comprised of, *inter alia*, *a glass fiber yarn with a titer of from about 30 to 75 tex as the warp*, wherein the warp density of the fabric ranges from 2.5 to 5 threads/cm, wherein the woven, patterned glass fiber textile fabric is *formed from a Jacquard weaving process using a Jacquard loom*.

Again, Applicants respectfully submit that the proposed combination of Draxö and Land would *not* have provided a predictable result of the presently claimed woven, patterned glass fiber textile fabric comprised of a glass fiber yarn with a titer of from about 30 to 75 tex as the warp, and a glass fiber yarn having a titer ranging from 190 to 350 tex as the weft, wherein the warp density of the fabric ranges from 2.5 to 5 threads/cm and the weft density ranges from 2.0 to 12 threads/cm, wherein the woven, patterned glass fiber textile fabric is formed from a Jacquard weaving process using a Jacquard loom, wherein each glass fiber yarn used as the warp and/or weft is a sliver or a texturized yarn.

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For at least the above reasons, it is apparent that no *prima facie* case of obviousness has been established. Accordingly, withdrawal of the rejection of claims 1, 3, 4, 6, 7, and 11 as allegedly unpatentable over Draxo in view of Land is respectfully requested.

Conclusion

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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